



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,309	03/16/2001	Walter J. Kennamey	1018.133US1	9560

41505 7590 02/27/2006

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

EXAMINER

TODD, GREGORY G

ART UNIT PAPER NUMBER

2157

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/681,309

Applicant(s)

KENNAMER ET AL.

Examiner

Gregory G. Todd

Art Unit

2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached..

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

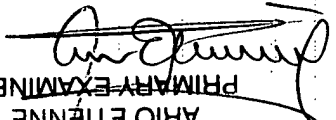
Continuation of 3. NOTE: Applicants amendments to the claims raise new issue that would require further search and/or consideration. Such new issue being at least the plurality of servers being organized into failover groups as well as the server explicitly performing each function of claim 15, as well as the client explicitly performing some functionality in claims 10 and 19.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments have been considered but are not persuasive. Applicants argue, substantially, that Le fails to teach a master server managing notifications from clients and servers as to whether a server is offline or not. However, Le teaches in Fig. 3 the client(s) being connected to the service network connected to the servers. Le further teaches in Fig. 4 the service manager being connected to the role manager. Le further teaches the clients sending requests to the plurality of servers (at least col. 3, lines 47-67), such requests when not fulfilled notifying that the server must be offline. Thus, as the claims do not explicitly state the notifications are sent directly to the master server, and thus could be derived from the clients via the servers, Le teaches the limitations as claimed.

Applicants further argue Le fails to teach storing data the client ultimately is requesting, with such data being partitioned. As the Examiner replied in the previous action:

"Applicants arguments are not persuasive. As Applicant admits, Le teaches a group of servers offering different services and upon a failure of one server offering a service, the service being transferred to another server to provide the server to client requests. In this case the data is inherently partitioned, as Applicant notes in the background of the application, see paragraph 5, in order for the other servers to provide the other services, else the other servers would not be able to perform the service switching. Thus Le teaches partitioned data so a server processing a certain type of client requests can process other types of client requests upon another server being offline." Thus, Le teaches the claimed features as Le teaches one server providing primarily one service and another server providing primarily another different service, however, when that server and thus service are no longer available, the other server will provide that service according to data that deems that server best capable of offering that service.

Applicants further argue the claims as amended. However, the amendments have not been entered at this time and thus is not applicable.


PRIMARY EXAMINER
ARIO ETIENNE